

**FOREST AND RURAL DEVELOPMENT COMMISSIONER BRANCH
(WELFARE & HORTICULTURE)**

No. 535/F&RD-KVIC/2001 Dehradun : March 26, 2001

AID MEMOIRE

A meeting was held on 23.3.2001 between Principal Secretary & Commissioner, Forest & Rural Development, Government of Uttranchal, and Shri Shankar Agrawal, Joint Secretary, KVIC Department of Small Scale Industry, Govt. of India. During the meeting Sri I.D. Dumka, Secretary, Ishwar Jyoti Sansthan and member Bee Keepers Association Kumaon, Ms. Binita Shah, SUPA, Nainital and Sri Naveen Nainwal, DASP and Dr. Narendra Tomar, Director, KVIC Regional office were also present.

2. After Detailed discussions the following areas were identified for assistance, co-operation and development, in immediate future.

3. BEE KEEPING:

3.1 KVIC will provide assistance in training at Pune for NGOs and beneficiaries.

3.2 KVIC will extend support under Rural Employment Generation Programmes through its scheme of Bank loan with 30% assistance.

3.3 District wise Bee keeping projects are to be prepared for Uttranchal, giving block wise information of beneficiaries including their names and address and also for NGOs giving their names and address both for Kumaon and Garhwal region.

3.4 Assistance will be extended for honey processing, packaging and marketing and KVIC will provide assistance of best possible designer and the help of their marketing network.

Action : All CDOs/Bee Keepers Association, Kumaon & Garhwal/Director, Horticulture/I/C Jeolikot

4. MUSHROOM CULTIVATION:

KVIC will provide assistance for a study on marketing of Mushrooms.

Action : CDO, Nainital/Coordinator, Mushroom Project & I/c Mushroom Project, Dehradun

5. WOOL DEVELOPMENT:

5.1 Dr. R.S. Tolia informed that an extensive survey of weavers has been conducted for the Ramganga-Gori Valley of Muniary, tehsil, Based on that survey a project report will be prepared for KVIC assistance.

5.2 The Border areas, namely Dharchula, Muniary (Pithoragarh), Danpur (Bageshwar), Joshimath (Chamoli) and Dunda, Bhkhatwari, Mori blocks of Uttarkashi are the region where sheep rearing and traditional weaving is still in vogue and very much alive. Sri Shankar Agrawal agreed to upgrade the existing carding and weaving centres located at Dharchula, Muniary, Joshimath & Dehradun, provided the existing govt. centres are leased out to society/Association for combing and carding on a custom basis service basis.

- 5.3 To avail the above assistance from KVIC a Cabinet Note is to be prepared to Industry Department for handing over these existing institutions on long lease to the local weavers association/Societies.

Action: Director, Industries and FRDC
(Welfare)

- 5.4 KVIC will extend help for establishment of Common Facility Centres (CFC) for the weavers. The areas identified for such CFCs are at Sama Bageshwar, Thal(Pithoragarh), Loharkhet(Bageshwar), Munsiary (Pithoragarh), Danpur(Bageshwar) Joshimath(Chamoli) and Choribagar (Block Dharchula Pithoragarh). Project for these CFCs are to be prepared by G.M. D.I.C.s and CDOs and submitted to KVIC through the State Nodal Agency, Forest & Rural Development, Govt. of Uttranchal.

Action: CDOs/G.M. D.I.C.s FRDC
(Welfare)

- 5.5 The wool bank scheme as to be established with the help of the wool purchase by Animal Husbandry for the sheep kept at their farms Pashulok, purchase for shepherds imported from Tibet under the scheme. This wool has to be provided to the various weavers association as a one time revolving fund/assistance.

Action: CDOs/Animal Husbandry Deptt. FRDC
(Welfare)

- 5.6 A wool mandis may be considered for establishment at strategic route i.e. Dharchula-Tanakpur, Munsiary-Thal-Ramnagar, Mana-Neeli-Srinagar-Haridwar-Kotdwar at Haridwar or Kotdwar and Harsil-Dunda-Tehri-Narendra Nagar- Haridwar of Vikasnagar after a rapid study. Assistance of Uttranchal Mandi Parishad is to be sought for the establishment of these wool mandi yards.

Action: Animal Husbandry Deptt. & CDOs

6. HERBAL PRODUCTS

- 6.1 A CFC has to be provided to M/S Anrori Herbo Agro Tech (Dr. Anita Joshi) Nainital for production of olio-resin and products. This unit/NGO will extend cultivation of important herbs near a unit at Anrori Herbo Agro Tech with the help of a large number of Van Panchayats.
- 6.2 Chillies are profusely grown in Betalghat, Salt, Syaldeh and two neighboring blocks of Pauri district. In these five blocks grounding, grading, packing and conversion into olio-resin can be organised on a big scale with the help of unit like M/s Anrori Herbo Agro Tech, Nainital and CDO, Nainital CDO, Almora and Pauri Garhwal should identify the units, allocate the blocks and formulate projects to be implemented by such units which can be assisted by KVIC.
- 6.3 A sample of each of all products by M/S Anrori Herbo Agro Tech for the perusal of Sri Shankar Agrawal, Joint Secretary, KVIC, SSI, GoI.
- 6.4 Ginger is also produced on a large scale in and around Dehradun, Hrdakhan in Nainital. CDO to identify similar belts for Farmer's Interest Group and forward a project for assistance for KVIC.
- 6.5 Dr. R. S. Tolia informed Sri Shankar Agrawal that with Gopeshwar as its headquarters the Uttranchal Jari Buti Sodh & Vikas Sansthan is Planning to extend cultivation of few selected herbs through a large number of Van Panchayats. Jadi Buti Sodh Evam Vikas Shanstan should prepare district wise projects for cultivation of selected varieties of herbs for which demand exists and submit it to KVIC for assistance.

7. TISSUE CULTURE

- 7.1 Sri Shankar Agrawal mentioned that there is an acute shortage of good planting material of fruits plants and therefore good planting material needs to be multiplied through the Tissue Culture route. It was agreed that Plantis Agro Tech, a Joint Venture of Kumaon Mandal Vikas Nigam, Niglat District Nainital could open a branch in Garhwal and multiply fruit seedlings with the help of some NGOs/Farmer Association/Garwal Mandal Vikas Nigam for this purpose. This project is to be submitted by M/s Plantis Agro Tech to Sri Shankar Agrawal, Joint Secretary, KVIC, SSI, GOI. they may also add a project for expansion for their existing laboratory at Niglat, Nainital.

Action : Dr. Akhilesh Tyagi, Niglat & KMVN
FRDC (Horticulture)

8. CORRUGATED BOXES:

- 8.1 In the fruit belts of Uttranchal any entrepreneur/an agency/FIG has to be encouraged to establish a manufacturing plant for Corrugated Boxes using local material.

Action : All CDOs to identify units in the districts who are willing to start manufacturer of Corrugated Boxes with the help of KVIC Uttranchal Mandi Parishad and Directorate, Horticulture will support the establishment and demand generation for such corrugated boxes

- 8.2 Mr. Shankar Agrawal apprised that there is a provision for setting up processing units for pickle and cereal based product like confectioneries etc.

Action : CDOs to identify willing groups/ Entrepreneurs/NGOs/Association who are interested in such projects and forward their projects to SSI, GOI

9. JHULA (LICHEN):

- 9.1 Dr. R. S. tolia informed that a huge quantity, in thousand of quintals of Jhula, immediately after rainy season is annually generated in the oak forests of Uttranchal and taken to plains. Almost 80% of the bulk of the 8 Bheshaj Sanghs of Uttranchal consists of collection and marketing of their forest product. It was agreed that KVIC would assist in a study which will find out where this Jhula is consumed and what type of upstream processing units can be established within Uttranchal itself using this raw material.

Action : VC SNA to submit a project for conducting such study with the help of Bheshaj Sanghs of Uttranchal and for establishment of Up stream processing units within Uttranchal

- 9.2 The 8 Bheshaj Sanghs should also propose projects for grading, marketing processing of various herbal products which they are marketing, trading every year. The Bheshaj Sanghs can use their savings as promoter's share in which the Uttarakhand Mandi Parishad, Rudrapur will also participate.

Action : Dr. S. S. Mishra to prepare such projects for each of the 8 Bheshaj Sanghs for Uttranchal submit these to KVIC, SSI, GOI.

9.3 If any major project using Jula emerges the same will be developed for being funded by either KVIC, SSI, GoI or under Swarn Jayati Gram Swarojgar Yojana as such a project is likely to have universal application wherever oak trees are grown.

Action : Dr. S S. Mishra, Pharmaceutical Expert, Cooperative Department to work out details of such a project for financing/funding agreement.

9.4 It is also likely that the processing plant to process the huge quantity of Jhula may also throw up possibilities of establishing other enterprises, which will be considered later for financial assistance by KVIC, SSI, GoI.

9.5 Dr. R.S. Tolia also mentioned about the enquiry made by some Korean entrepreneurs for supply of ACORN i.e. the kernels oak seed, projects can be developed using these kernels of oak seeds. The project is to provide for simple descaling equipments for use of individual SHG members. SJGSY provides of 15% for training and 15% for infrastructure, out of a total sealing of Rs. 2.5 Lakhs per SHG.

Action : CDOs to consider examination of this possibility where oak forest are in abundance, M.D. KMVN, who worked on the project for U.P. Export Corporation for some time is to provide the names of entrepreneur's to the SNA.

10. OAT AS CEREAL FOR NUTRIENT FOOD SUPPLEMENT:

Ms. Bineeta Shah Enquired from Sri Shankar Agrawal information about processing of oat as cereal or a food supplement, as oats can be grown in the temperate areas and presently does not have a market. Sri Shankar Agrawal promised to provide this information for further action.

(Dr. R. S. Tolia)
Principal Secretary & Commissioner
Forest & Rural Development

Copy for information & necessary action:

1. Sri Shankar Agrawal, Joint Secretary, SSI, Govt. of India.
2. All CDOs, Uttarakhand
3. Sri I.D. Dumka, Secretary Ishwar Jhoti Sansthan, Nainital
4. Dr. N.S. Tomar, Director, KVIC, Uttarakhand, Dehradun
5. Dr. S.S. Mishra, I/c Pharmaceutical export corporation, Ranikhet and Director, Jari Buti Shodh Sansthan, Gopeshwar
6. Sri Ajai Singh Nabiyal, Managing Director, Kumaon Mandal Vikas Nigam, Nainital
7. Secretaries, 8 Bheshaj Sanghs, Uttarakhand
8. Dr. A. Tyagi, Plantis Agro Tech, Nigat/Sri Sudhir Chadda, Chadda Farm, Kaladhungi, Nainital
9. Ms. Binita Shah, SUPA, Nainital.

(Dr. R. S. Tolia)
Principal Secretary & Commissioner
Forest & Rural Development

THE BIOLOGICAL DIVERSITY BILL, 2000

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Bill No. 93 of 2000

THE BIOLOGICAL DIVERSITY BILL, 2000

A

BILL

to provide for conservation of Biological Diversity, sustainable use of its components and equitable sharing of the benefits arising out of the use of biological resources and for matters connected therewith or incidental thereto.

WHEREAS India is rich in biological diversity and associated traditional and contemporary knowledge system relating thereto;

AND WHEREAS India is a party to the United Nations Convention on Biological Diversity knowledge system relating thereto;

AND WHEREAS India a party to the United Nations Convention on Biological Diversity signed at Rio de Janeiro on the 5th day of June, 1992;

AND WHEREAS the said convention came into force on the 29th December, 1993;

AND WHEREAS the said convention reaffirms the sovereign rights of the State over their biological resources;

AND WHEREAS the said Convention has the main objective of conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising of utilisation of genetic resources;

AND WHEREAS it is considered necessary to provide for conservation, sustainable utilisation and equitable sharing of benefits arising out of utilisation of genetic resources also to give effect to said convention;

Be it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Biological Diversity Act, 2002.
(2) It extends to the whole of India.
(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In this Act, unless that context otherwise requires:-
 - (a) "benefit claimers" mean the conservers of biological resources, their by products, creators and holders of knowledge and information relating to the use of the such biological resources, innovations and practices associated with such use and application:-
 - (b) "biological diversity" means the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of eco-systems;
 - (c) "biological resources" means plants, animals and micro organisms or parts thereof, their genetic material and by-products with actual or potential use or value but does not include human genetic material;
 - (d) "bio-survey and bio-utilisation" means survey or collection of species, sub-species, genes, component and extracts of biological resource for any purpose and includes characterisation, inventorisation and bioassay;
 - (e) "Chairperson" means the Chairperson of the National Biodiversity Authority or, as the case may be, of the State Biodiversity Board;
 - (f) "equitable benefit sharing" means sharing of benefits as determined by the National Biodiversity Authority under section 21;
 - (g) "local bodies" means panchayats and Municipalities, by whatever name called, within the meaning of clause (1) of article 243B and clause (1) of article 243Q of the Constitution and in the absence of any Panchayats or Municipalities, institutions of self-government constituted under any Central Act or State Act;
 - (h) "member" means members of the national Biodiversity Authority or a State Biodiversity Board and includes the Chairperson;
 - (i) "National Biodiversity Authority" means the national Biodiversity Authority established under section 8;
 - (j) "prescribed" means prescribed by rules made under this Act;
 - (k) "regulations" means regulations made under this Act;
 - (l) "research" means study or systematic investigation of any biological resource or technological application, that uses biological systems, living organisms or derivatives thereof to make or modify products or processes for any use;
 - (m) "State Biodiversity Board" means the State Biodiversity Board established under section 22;
 - (n) "sustainable use" means the use of component of biological diversity in such manner and at such rate that does not lead to the long-term decline of the biological diversity thereby maintaining its potential to meet the needs and aspirations of present and future generations.

CHAPTER II

REGULATION OF BIOLOGICAL DIVERSITY

3. (1) No person referred to in sub-section (2) shall without previous approval of the National Biodiversity Authority obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilisation or for bio-survey and bio-utilisation.

(2) The persons who shall be required to take the approval of the National Biodiversity Authority under sub-section (1) are the following, namely:-

- (a) a person who is not a citizen of India;
- (b) a citizen of India, who is non-resident as defined in Clause (30) of section 2 of the Income-tax Act 1961;
- (c) a body corporate, association or organisation-
 - (i) not incorporated or registered in India, or
 - (ii) incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share Capital or management.

4. No person shall without the previous approval of the National Biodiversity Authority, transfer the results of any research relating to any biological resources occurring or obtained from India for monetary consideration or otherwise to any person who is not a citizen of India or a body corporate or organisation which is not registered or incorporated in India or which has non-Indian participation in its share capital or management.

Explanation-for the purposes of this section "transfer" does not include publication of research papers or dissemination of knowledge in any seminar or workshop, if such publication is as per the guidelines issued by the Central Government.

5. (1) The provisions of sections 3 and 4 shall not apply to collaborative research projects involving transfer or exchange of biological resources or information relating thereto between institutions, including Government institutions of India, and such institutions in other countries, if such collaborative research projects satisfy the conditions specified in sub-section (3).

(2) All collaborative research projects, other than those referred to in sub-section (1) which are based on agreements concluded before the commencement of this Act and in force shall, to the extent the provisions of agreement are inconsistent with the provisions of this Act or any guidelines issued under clause (a) of sub-section (3), be void.

(3) For the purposes of sub-section (1) collaborative research projects shall-

- (a) Conform to the policy guidelines issued by the Central Government in this behalf;
- (b) be approved by the Central Government.

6. (1) No person shall apply for any intellectual property right by whatever name called in or outside India for any invention based on any research or information on a biological resource obtained from India without obtaining the previous approval of the National Biodiversity Authority before making such application

Provided that if a person applies for a patent, permission of the National Biodiversity Authority may be obtained after the acceptance of the patent but before the sealing of the patent by the authority concerned.

(2) The National Biodiversity Authority may, while granting the approval under this section, impose benefit sharing fee or royalty or both or impose, conditions including the sharing of financial benefits arising out of the commercial utilisation of such rights.

Certain persons to undertake Biodiversity related activities without approval of National biodiversity Authority

Results of research not to be transferred to certain persons without approval of National Biodiversity Authority

Sections 3 and 4 not to apply to certain collaborative research projects.

Application for intellectual property right not to be made without approval of National biodiversity Authority

(3) The provisions of this section shall not apply to any person making an application for any rights under any law relating to protection of plant varieties enacted by parliament.

(4) Where any right is granted under sub-section (3), the concerned authority shall the such right shall endorse a copy of such document granting the right to the National Biodiversity Authority.

Provisions of
the State
Biodiversity
Board
or obtaining
biological
resource for
commercial
purposes

(5) No person who is a citizen of India or a body corporate, association or organisation which is registered in India shall obtain any biological resource for commercial utilisation or bio-survey and bio-utilisation except after giving prior intimation to the State Biodiversity Board Concerned.

Provided that the provisions of this section shall not apply to the local people and communities of the area including vaidas and hakims who have been practising indigenous medicine.

CHAPTER III NATIONAL BIODIVERSITY AUTHORITY

Establishment
of National
Biodiversity
Authority

(6) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint there shall be established for the purposes of this act, a body to be called the National Biodiversity Authority.

(7) The National Biodiversity Authority shall be a body corporate by the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property both movable and immovable and to contract, and shall be sued by that name sue and be sued.

(8) The head office of the National Biodiversity Authority shall be at Chennai and National Biodiversity Authority may, with the previous approval of the Central Government, establish offices at other places in India.

(9) The National Biodiversity Authority shall consist of the following Members, namely-

(a) A Chairperson, who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the Central Government,

(b) three members ex officio to be appointed by the Central Government, one representing the Ministry of Tribal Affairs and two representing the Ministry of Environment and Forests of whom one shall be the Additional Inspector General of Forests or the Inspector General of Forest,

(c) Two members of Office to be appointed by the Central Government to represent respectively the Ministries of the Central Government dealing with-

(i) Agricultural Research and Education,

(ii) biotechnology,

(iii) Ocean Development,

(iv) Agricultural and Cooperation,

(v) Indian system of Medicine and Homoeopathy,

(d) Five non-official members to be appointed from amongst specialities and scientists having special knowledge or experience in matters relating to conservation of biological diversity, sustainable use of biological and equitable sharing of benefits arising out of the use of biological resources, representatives of industry, conservers, creators and knowledge holders of biological resources.

9 The term of office and conditions of service of the Chairperson and the other members other than ex-officio members shall be such as may be prescribed by the Central Government

Conditions of service of Chair person and Members
Chairperson to be Chief Executive of National Biodiversity Authority

(C) The Chairperson shall be Chief Executive of the National Biodiversity Authority and shall exercise such powers and perform such duties as may be prescribed

(1) The Central Government may remove from the National Biodiversity Authority any member, who, in its opinion has-

- (a) Been adjudged as an insolvent, or
- (b) been convicted of an offence which involves moral turpitude, or
- (c) become physically or mentally incapable of acting as a member, or
- (d) so abused his position as to render his conduct since his office detrimental to the public interest, or
- (e) acquired such financial or other interest as is likely to affect prejudicially his functions as member

(2) (1) The National Biodiversity Authority shall meet at such time and place and shall observe such rules of procedure as regard to the transaction of business at its meetings (including the quorum at its meetings) as may be prescribed

Meeting of National Biodiversity Authority

(2) The Chairperson of the National Biodiversity Authority shall preside at the meetings of the National Biodiversity Authority

(3) If for any reason the Chairperson is unable to attend any meeting of the National Biodiversity Authority, any member of the National Biodiversity Authority Chosen by the members present at the meeting shall preside at the meeting

(4) All questions which come before any meeting of the National Biodiversity Authority shall be decided by a majority of the votes of the members present and voting and in the event of equality of votes, the Chairperson or, in his absence, the person presiding, shall have and exercise a second or casting vote

(5) Every member who is in any way, whether directly, indirectly or personally concerned or interested in a matter to be decided at the meeting, shall disclose the nature of his concern or interest and after such disclosure, the member concerned or interested shall not attend that meeting

(6) No Act or proceeding of the National Biodiversity Authority shall be invalidated merely by reason of-

- (a) any vacancy in or any defect in the Constitution of the National Biodiversity Authority, or
- (b) any defect in the appointment of a person acting as member, or
- (c) any irregularity in the procedure of the National Biodiversity Authority not affecting the merits of the case.

(13) (1) The National Biodiversity Authority may constitute a committee to deal with agro-biodiversity

Committees of National Biodiversity Authority

Explanation: For the purposes of this sub-section "Agro-biodiversity" means biological diversity of agriculture related species and their wild relatives

(2) Without prejudice to the provisions of sub-section (1) the National Biodiversity Authority may constitute such number of committees as it deems fit for the efficient discharge of its duties and performance of its functions under this Act

(3) A committee constituted under this section, shall co-opt such number of persons, who are not members of the National Biodiversity Authority, as it may think fit and the persons so co-opted shall have the right to attend the meeting of the committee

	and take part in its proceedings but shall not have the right to vote.
	(3) The persons appointed as members of the committee under subsection (2) shall be entitled to receive such allowances and fees for attending the meetings of the committee as may be fixed by the Central Government.
Officers and employees of National Biodiversity Authority	(4) The National Biodiversity Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this act.
Authenticaton of orders and National Bio- diversity Authority	(5) The terms and conditions of services of such officer and other employees of the National Biodiversity Authority shall be such as may be specified by regulations.
Expenses of National Biodiversity Authority to be defrained out of the Consolidated Fund of India	(6) All orders and decisions of the National Biodiversity Authority shall be authenticated by the signature of the Chairman or any other member or officer in the National Biodiversity Authority in his behalf and all the instruments executed by the National Biodiversity Authority shall be authenticated by the signature of an officer of the National Biodiversity Authority authorised in this behalf.
	(7) The National Biodiversity Authority may be given such specific orders or written directions by any officer of the National Biodiversity Authority as may be necessary to carry out the functions of the National Biodiversity Authority under this Act, except the power to settle disputes under section 16 and the power to make regulations under Section 16(2) as it may deem necessary.
	(8) The salaries and allowances payable to the members and the administrative expenses of the National Biodiversity Authority including salaries, allowances and pension payable in respect of the officers and other employees of the National Biodiversity Authority shall be defrained out of the Consolidated Fund of India.

CHAPTER IV

FUNCTION AND POWERS OF THE NATIONAL BIODIVERSITY AUTHORITY

- (1) It shall be the duty of the National Biodiversity Authority to regulate activities referred to in sections 3, 4 and 6 and by regulations issue guidelines for access to and equitable benefit sharing.
- (2) The National Biodiversity Authority may grant approval for undertaking any activity referred to in sections 3, 4 and 6.
- (3) The National Biodiversity Authority may-
- (a) advise the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilisation of biological resources;
 - (b) advise the State Government on the selection of areas of biodiversity importance to be notified as heritage sites and measures for the management of such heritage sites;
 - (c) perform such other functions as may be necessary to carry out the provisions of this Act.
- (4) The National Biodiversity Authority may, on behalf of the Central Government take any measures necessary to oppose the grant of intellectual property rights in any country outside India on any biological resource obtained from India or knowledge associated with such biological resource which is derived from India.

CHAPTER V

APPROVAL BY THE NATIONAL BIODIVERSITY AUTHORITY

5. (1) Any person referred to in sub-section (1) of section 3 who intends to carry out below, carry out in India or knowlelge associated thereto or research or for commercial utilisation or for bio-survey and documentation or transfer the results of any research relating to biological resources carried in or obtained from India shall make application in such form and payment of such fees as may be prescribed to the National Biodiversity Authority.
- (2) Any person who intends to apply for a patent or any other form of the actual property protection whether in India or outside India may make an application in such form and manner as may be prescribed to the National Biodiversity Authority.
- (3) On receipt of an application under sub-section (1) or sub-section (2), the National Biodiversity Authority may after making such enquiries as it may deem fit and necessary after consulting an expert committee constituted for the purposes by or under the previous Directorate regulations, if so as and after due notice to such person concerned as it may deem fit, including the imposition of the levy of any fee as may be recorded in the application.
- Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.
- (4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.
- (5) (1) Any person who has been granted approval under section 15 to transfer any biological resources or knowledge associated thereto or the subject matter of the such approval, except with the permission of the National Biodiversity Authority.
- (2) Any person who intends to transfer any biological resources or knowledge associated thereto referred to in sub-section (1), shall make an application in such form and manner as may be prescribed to the National Biodiversity Authority.
- (3) On receipt of an application under sub-section (2), the National Biodiversity Authority may, if it deems such application is deemed fit and necessary after consulting an expert committee constituted for this purpose by or under the regulations, impose such conditions as it may deem fit, including the imposition of charges by way of levy or for reasons to be recorded in writing reject the application.
- Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.
- (4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.
- (5) (1) The National Biodiversity Authority shall while granting approval under section 15 or section 2, ensure that the terms and conditions subject to which approval is granted secures equitable sharing of benefits arising out of the use of accessed biological resources, their by-products, innovations and practices associated with their use and application and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, local bodies concerned and the benefit claimers.
- (2) The National Biodiversity Authority shall subject to any regulations made in this behalf determine the benefit sharing which shall be given effect in any or any of the following manner, namely-
- (a) grant of joint ownership of intellectual property rights to the National Biodiversity Authority or where benefit claimers are identified, to such
- Approval by National Biodiversity Authority for undertaking certain activities
- Transfer of biological resource or knowledge
- Determination of equitable benefit sharing by National Biodiversity Authority

benefit claimers;

(b) transfer of technology;

(c) location of product or research and development units in such areas which will facilitate better living standards to the benefit claimers;

(d) association of Indian scientists, benefit claimers and the local people with research and development in biological resources and bio-survey and bio-utilisation;

(e) setting up of venture capital fund for aiding the cause of benefit claimers;

(f) payment of monetary compensation and other non-monetary benefits to the benefit claimers as the National Biodiversity Authority may deem fit;

(3) Where any amount of money is ordered by way of benefit sharing, the National Biodiversity Authority may direct the amount to be deposited in the National Biodiversity Fund;

Provided that where biological resource or knowledge was a result of access from a specific individual or group of individuals or organisation, the National Biodiversity Authority may direct that the amount shall be paid directly to such individuals or group of individuals or organisations in accordance with the terms of any agreement and in such manner as it deems fit;

(4) For the purposes of this section, the National Biodiversity Authority shall, in consultation with the Central Government, by regulations, frame guidelines;

CHAPTER VI

STATE BIODIVERSITY BOARD

Establishment
of State
Biodiversity
Board

22. (1) With effect from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the purposes of this Act, a Board for the State to be known as the _____ (name of the State) Biodiversity Board;

(2) Notwithstanding anything contained in this section, no State Biodiversity Board shall be constituted for a Union territory and in relation to a Union territory, the National Biodiversity Authority shall exercise the powers and perform the functions of a state Biodiversity Board for that Union territory;

Provided that, in relation to any Union territory, the National Biodiversity Authority may delegate all or any of its powers or functions under this sub-section to such person or group of persons as the Central Government may specify;

(3) The Board shall be a body corporate by the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall be the said name and be styled;

(4) The Board shall consist of the following members, namely—

(a) a chairperson who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the State Government;

(b) not more than five ex officio members to be appointed by the State Government to represent the Departments of the State Government;

(c) not more than five members to be appointed from amongst experts in matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources;

(5) The head office of the State Biodiversity Board shall be at such place as the

State Government may, by notification in the official Gazette, specify-

23 The Function of the State Biodiversity Board shall be to-

- (a) advise the State Government, subject to any guidelines issued by the Central Government, on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of the benefits arising out of the utilisation of biological resources;
- (b) regulate by granting of approvals or otherwise requests for commercial utilisation or bio-survey and bio-utilisation of any biological resource by Indian;
- (c) perform such other functions as may be necessary to carry out the provisions of this Act or as may be prescribed by the State Government.

24 (1) Any citizen of India or a body corporate, organisation or association registered in India intending to undertake any activity referred to in section 6(1) above, prior intimation in such form as may be prescribed by the State Government to the State Biodiversity Board.

(2) On receipt of an intimation under sub-section (1) the State Biodiversity Board may, in consultation with the local bodies concerned and after making such enquiries as it may deem fit, by order prohibit or restrict any such activity. If it is of opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity-

Provided that no such order shall be made without giving an opportunity of being heard to the person affected.

25 The provisions of sections 9 to 17 shall apply to a State Biodiversity Board and shall have effect subject to the following modifications, namely:-

- (a) references to the Central Government shall be construed as references to the State Government;
- (b) references to the National Biodiversity Authority shall be construed as references to the Board;
- (c) reference to the Consolidated Fund of India shall be construed as reference to the Consolidated Fund of the State.

CHAPTER VII

FINANCE ACCOUNTS AND AUDIT OF NATIONAL BIODIVERSITY AUTHORITY

26 The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the National Biodiversity Authority by way of grants or loans such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

27 (1) There shall be constituted a fund to be called the National Biodiversity Fund and there shall be credited thereto-

- (a) any grants and loans made to the National Biodiversity Authority under section 26;
- (b) all charges and royalties received by the National Biodiversity Authority under this Act, and
- (c) all sums received by the National Biodiversity Authority from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for-

- (a) pursuant to the

Functions of State Biodiversity Board

Power of State Biodiversity Board to restrict certain activities violating the objectives of conservation etc.

Provisions of section 9 to 17 to apply with modifications to State Biodiversity Board

National biodiversity Fund

Application of National Biodiversity Fund

Annual report
of National
Biodiversity
Authority

Budget accounts
and aud

Annual report
to be laid
before
Parliament

Grant of money
by State
Government
to State
Biodiversity
Board
State
Biodiversity
Fund

7. (1) conservator of biological resources and development of areas from where such biological resources or knowledge associated therewith has been successively

(2) socio-economic development of areas referred to in clause (b), in consultation with the local bodies concerned

28. The National Biodiversity Authority shall prepare in such form and at such time as may be prescribed, its annual report giving full account of its activities during the previous financial year and furnish to the Central Government, before such date as may be prescribed, its audited copy of account together with auditors' report thereon

29. (1) The National Biodiversity Authority shall prepare a budget, maintain proper accounts and other relevant records including the accounts of any other relevant records of the National Biodiversity Fund and prepare an annual statement of account in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India

(2) The accounts of the National Biodiversity Authority shall be audited with the Comptroller and Auditor-General and at such intervals as may be specified when and any expenditure incurred in connection with such audit shall be payable by the National Biodiversity Authority to the Comptroller and Auditor-General of India

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the National Biodiversity Authority shall have the same rights and processes and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the National Biodiversity Authority

(4) The Central Government shall cause the annual report and auditors' report to be laid, as soon as may be after they are received before each house of Parliament

CHAPTER VIII

FINANCE, ACCOUNTS AND AUDIT OF STATE BIODIVERSITY BOARD

31. The state Government may, after due appropriation by the State Legislative Assembly in its behalf, pay to the State Biodiversity Board by way of grants or loans such sums of money as the State Government may think fit for being utilized for the purposes of this Act

32. (1) There shall be constituted a fund, called the State Biodiversity fund and there shall be credited thereto-

(a) any grants and loans made to the State Biodiversity Board under section 31;

(b) any grants or loans made by the National Biodiversity Authority

(c) All sums received by the State Biodiversity Board from such other sources as may be decided upon by the State Government

(2) The state Biodiversity Fund shall be applied for-

(a) the management and conservation of heritage

(b) compensating or rehabilitating any section of the people economically affected by restriction imposed under section 37;

(c) conservation of biological resources,

(d) socio-economic development of areas where such biological resources

or knowledge associated therewith granted under section 24—(consolation
(c) meeting the expenses incurred for purposes authorized by this Act

33 The State Biodiversity Board shall prepare in such form and at such time each financial year as may be prescribed its annual report giving a full account of its activities during the previous financial year and submit a copy thereof to the State Government

34 The accounts of the State Biodiversity Board shall be examined and audited in such manner as may be in consultation with the Accountant General of the State as prescribed and the National Biodiversity Authority shall furnish to the State Government before such date as may be prescribed its audited copy of accounts together with auditor's report thereon

35 The State Government shall cause a annual report and auditor's report to be laid, as soon as may be after they are received before the House of State Legislature

Annual report
of State
Biodiversity
Board

Audit of
account of State
Biodiversity
Board

Annual report
of State Bio-
diversity Board
to be laid before
State Legislature

CHAPTER IX

DUTIES OF THE CENTRAL AND THE STATE GOVERNMENTS

(a) The Central Government shall develop national strategies, plans, programmes for the conservation and sustainable use of biological diversity, including measures for protection and monitoring areas rich in biological resources, promotion of in-situ use and sustainable use of genetic resources, conservation research, training, public education, to increase awareness with respect to biodiversity

(b) The Central Government shall, as far as practicable, wherever it deems appropriate, integrate the conservation and sustainable use of biological diversity into its central, sectoral, cross-sectoral plans, programmes and policies

Central
Government to
develop
national strate-
gies, plans etc.
for conserva-
tion etc. of biological
diversity

(3) The Central Government shall undertake measures—

(i) wherever necessary, for assessment of environmental impact of that project which is likely to have an adverse effect on biological diversity with a view to avoid or mitigate such effect and where appropriate provide for compensation in such assessment,

(ii) to regulate, manage or control the risks associated with the use and release of any new or a result of any new or any known to have adverse impact on the conservation and sustainable use of biological diversity and human health

(3) The Central Government shall endeavour to respect and protect the knowledge of local people relating to biological diversity as recognized by the National Biodiversity Authority through such measures, which may include registration of such knowledge at the local, State or national levels and other measures for protection, including sui generis system

Explanation—For the purposes of this section—

- (a) "ex-situ conservation" means the conservation of components of biological diversity outside their natural habitats
- (b) "in-situ conservation" means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties

37 (1) Without prejudice to any other law for the time being in force, the State Government may from time to time in consultation with the sea bodies notify in the Official Gazette areas of biodiversity importance as biodiversity heritage sites under this Act.

Biodiversity heritage sites

(2) The State Government in consultation with the Central Government may frame rules for the management and conservation of all the heritage sites.

(3) The State Government shall frame schedules for compensation or rehabilitation of any person or section of people economically affected by such regulation.

38 Without prejudice to the provisions of any other law for the time being in force, the Central Government may from time to time notify a new species which is on the verge of the extinction or likely to become extinct in the near future as a threatened species and prohibit or regulate collection thereof for any purpose and take appropriate steps to rehabilitate and preserve those species.

39 (1) The Central Government may in consultation with the National Biodiversity Authority designate institutions as repositories under this Act for different categories of biological resources.

(2) The repositories shall keep in safe custody the biological material voucher specimens deposited with them.

(3) Any new Tax or discovered shall be notified to the repositories or any institution designated for this purpose and deposit the voucher specimens with such repository or institution.

40 Notwithstanding anything contained in this Act, the Central Government may in consultation with the National Biodiversity Authority by notification in the Official Gazette declare that the provisions of this Act are not applicable to any items including biological resources normally traded as commodities.

Power of
Central
Government
to regulate
endangered
species

Power of
Central
Government
to designate
repositories

Power of
Central
Government
to regulate
biological
resources

Constitution of
Biodiversity
Management
Committee

Grants to local
Biodiversity
Funds

CHAPTER X BIODIVERSITY MANAGEMENT COMMITTEES

41 (1) Every local body shall constitute a Biodiversity Management Committee within its area for the purpose of promoting conservation, sustainable use and utilisation of the biological diversity including the preservation of habitat, conservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals and micro-organisms and chronicling of knowledge relating to biological diversity.

(2) The National Biodiversity Authority and the State Biodiversity Boards shall consult the Biodiversity Management committees while taking any decisions relating to the use of biological resources and knowledge associated with such resources occurring within the territorial jurisdiction of the Biodiversity Management Committee.

(3) The Biodiversity Management Committees may levy charges by way of collection fee from any person for accessing or collecting any biological resource from areas falling within its territorial jurisdiction.

CHAPTER XI LOCAL BIODIVERSITY FUND

42 The State Government after due appropriation made by State Legislature by law in its behalf, pay to the Local Biodiversity Funds by way of grants or loans sums of money as the State Government may think fit for being utilised for the purposes of this Act.

43 (1) There shall be constituted a Fund to be called the Local Biodiversity Fund at every area not lied by the State Government where any institution of self government is functioning and there shall be credited thereto-

Constitution of
Local
Biodiversity
Fund

- (a) any grants and loans made under section 42,
- (b) any grants or loans made by the National Biodiversity Authority,
- (c) any grants or loans made by the State Biodiversity Boards,

(d) fee referred to in sub-section (3) of section 41 received by the Biodiversity Management Committee,

(e) all sums received by the Local Biodiversity Fund from such other sources as may be decided upon by the State Government

44 (1) Subject to the provisions of sub-section (2) the management and the custody of the Local Biodiversity Fund and the purposes for which such Fund shall be applied as may be prescribed by the State Government

Application of
Local
Biodiversity
Fund

(2) The Fund shall be used for conservation of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of the community so far such use is consistent with conservation of biodiversity

Annual report
of Biodiversity
Management
committees

45 The person holding the custody of the Local Biodiversity Fund shall prepare, in such form and during each financial year at such time as may be prescribed, its annual report giving a full account of its activities during the previous financial year and submit a copy thereof to the State Government

Audit of
accounts of
biodiversity
Management
committees

46 The account of the Local Biodiversity Fund shall be maintained and audited in such manner as may be consultation with the Accountant-General of the State be prescribed and the person holding the custody of the Local Biodiversity Fund shall furnish to the State Government before such date as may be prescribed, its audited copy of accounts together with auditors' report thereon

Annual report
of Biodiversity
Management
committees to
be laid before
State Legislature

47 The State Government shall cause the annual report and audited report to be laid, as soon as may be after they are received, before the House of State Legislature

National
Biodiversity
Authority to be
bound by the
directions given
by Central
Government

CHAPTER XIII

MISCELLANEOUS

48 (1) Without prejudice to the foregoing provisions of this Act, the National Biodiversity Authority shall in the discharge of its functions and duties under this Act be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time

Provided that the National Biodiversity Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section

(2) The decision of the Central Government whether a question is one of policy or not shall be final

Power of State
Government to
give directions

49 (1) Without prejudice to the foregoing provisions of this Act, the State Biodiversity Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the State Government may give in writing to it from time to time

Provided that the State Biodiversity Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section

(2) The decision of the State Government whether a ~~substantive~~ substantive policy or not shall be final.

Section 10
discretion of
the State
Government
to make
orders

(3) If a dispute arises between the National Biodiversity Authority and a State Biodiversity Board, the said Authority or the Board, as the case may be, may prefer a ~~qu~~ to the Central Government with such documents as may be prescribed.

(4) Every ~~app~~ made under sub-section (1) shall be made in such manner as may be prescribed by the Central Government.

(5) The procedure for disposal of a ~~qu~~ shall be such as may be prescribed by the Central Government.

(6) In case of a ~~qu~~ of an ~~app~~, the appellants shall be given a reasonable opportunity of being heard.

(7) Every ~~qu~~ between the State Biodiversity Boards, the Central Government and before the same to the National Biodiversity Authority.

(8) While inquiring any ~~qu~~ under sub-section (1), the National Biodiversity Authority shall be guided by the principles of natural justice and shall follow such procedure as may be prescribed by the Central Government.

(9) The National Biodiversity Authority shall have, for the purposes of inquiring ~~qu~~ under this section, the same powers as are vested in a court of ~~qu~~ under the Code of Civil Procedure, 1908 in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath,

(b) requiring the discovery and production of documents,

(c) receiving evidence on affidavits

(d) issuing commissions for the examination of witnesses and documents

(e) reviewing its decisions,

(f) dismissing an ~~app~~ or deferring its final ~~ex parte~~,

(g) setting aside any order of dismissal of any ~~app~~ or deferring any order passed by it ~~ex parte~~,

(h) any other matter which may be prescribed.

(10) Every ~~qu~~ before the National Biodiversity Authority shall be deemed to be a ~~qu~~ within the meaning of sections 193 and 228 and for the purposes of section 193, the Indian Penal Code and the National Biodiversity Authority shall be deemed to be a ~~qu~~ for the purposes of section 193 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1908

2 of 1974

Other
provisions
and
discretion
of the
Authority and
State Bio-
diversity Board
deemed to be
public services

(1) A ~~qu~~ or ~~app~~ and other ~~pro~~ of the National Biodiversity Authority or the State Biodiversity Board shall be deemed to be made or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1908

(2) No ~~qu~~ prosecution or other legal proceedings shall be against the Central Government or the State Government or any officer of the Central Government or the State Government or any member, officer or employee of the National Biodiversity Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

53 (1) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3, section 4 or section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees, or with both.

(2) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 7 or any order made under sub-section (1) of section 24 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.

54 If a person contravenes any direction given or order made by the Central Government, the State Government, the National Board or the State Board or Authority for which no punishment has been separately provided under this Act, it shall be punishable with a fine which may extend to one lakh rupees and in case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of continuous contravention with additional fine which may extend to two lakh rupees everyday during which the default continues.

55 (1) Where an offence or contravention under this Act has been committed by a company, every person who at the time the offence or contravention was committed was a director and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence or contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence or contravention under this Act has been committed by a company and it is proved that the offence or contravention has been committed with the consent or connivance of, or is attributable to, the neglect, in the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly.

Explanation-For the purposes of this section-

(a) "company" means any body corporate and includes a firm or other association of individuals, and

(b) "director", in relation to a firm, means a partner in the firm.

56 The offences under this Act shall be cognizable and non-bailable.

57 The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

58 The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any rule or regulation or order made thereunder.

Cognizance of
offences

Power of Central
Government to
make rules

59. No court shall take cognizance of any offence under this Act or rules and regulations made thereunder save on a complaint made by the National Biodiversity Authority or State Biodiversity Board, as the case may be.

60. (1) The Central Government may by notification in the official Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely—

(a) terms and conditions of service of Chairperson and member under section 9;

(b) powers and duties of the Chairperson under section 10;

(c) procedure under sub-section (1) of section 17 in regard to transaction of business at meetings;

(d) form of application and payment of fees for undertaking certain activities under sub-section (1) of section 19;

(e) form of application and manner of transfer of biological resource or knowledge under sub-section (2) of section 20;

(f) form in which and the time of each financial year at which the annual report shall be prepared under section 28;

(g) form in which the annual statement of account shall be prepared under section 29;

(h) form in which the annual financial statement of account may be presented by procedure of disengagement and merger under section 40; and

(i) any other matter which is to be or may be prescribed or in respect of which provisions is to be made, by rules.

(3) Every rule made under this section and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament when it is in session for a total period of forty days which may be comprised in one session or in two or more successive sessions and shall be read a second time before it is voted on by either House. The second session of either House may be held immediately following the session in which the first session of that House is adjourned for the purpose of giving notice of the meeting of either House or of the time of the adjournment of the House or of the resumption of the session. The rule or regulation so made shall be made in the relevant gazette under section 40. If either House agrees that the rule or regulation so made not be made in the relevant gazette under section 40, it shall thereafter be effect given to such rule or regulation as the case may be, however, if any such rule or regulation is to be made prejudicial to the validity of anything previously done under that relevant regulation.

(4) The State Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(5) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely—

(a) the form in which the prior information shall be given under sub-section (1) of section 24;

(b) the form in which and the time of each financial year at which the annual report shall be prepared under section 33;

(c) management and conservation of national heritage sites under section 37;

(d) the purposes for which Local Biodiversity Fund shall be applied under sub-section (1) of section 44;

(e) any other matter which is to be, or may be, specified.

Power of State
Government to
make rules

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that house.

Power to make regulations

62. The National Biodiversity Authority shall with the previous approval of the Central Government by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.

Power to remove difficulties

63. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty.

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

Biodiversity encompasses the variety of all life on earth. India is one of the 12 megadiversity countries of the world. With only 2.4% of the land area, India already accounts for 7-8% of the recorded species of the world. India is equally rich in traditional and indigenous knowledge, both coded and informal.

2. India is a Party to the Convention on Biological Diversity (1992). The main objectives of the convention are:

- (i) Conservation of biological diversity,
- (ii) Sustainable use of its components,
- (iii) Fair and equitable sharing of benefits arising out of the utilization of genetic resources.

3. Recognizing the sovereign rights of State to use their own biological resources, the Convention expects the Parties to facilitate access to genetic resources by other Parties for environmental and other purposes subject to national legislation and on mutually agreed upon terms (Articles 3 and 15). Article 8 (j) of the Convention recognizes contributions of local and indigenous communities to the conservation and sustainable utilisation of biological diversity through traditional knowledge, practices and innovations and provides for equitable sharing of benefits with such people arising out of utilisation of their knowledge, practices and innovations.

4. Biodiversity is a multi-disciplinary subject involving diverse sectoral activities and actions. The stakeholders in biodiversity include the Central Government, State Governments, institutions of local self-government, scientific and technical institutions, especially, non-governmental organisations, industry, etc. One of the major challenges before India is to adopt an instrument which helps to fulfil the objectives of equitable sharing of benefits enshrined in the Convention on Biological Diversity.

5. After an extensive and intensive consultation process involving the Stakeholders, the Central Government has decided to bring a legislation with the following salient features:

- (i) to regulate access to biological resources of the country with the purpose of securing equitable share in benefits arising out of the use of biological resources and associated knowledge relating to biological resources,
- (ii) to conserve and sustainably use biological diversity,
- (iii) to respect and protect knowledge of local communities related to biodiversity
- (iv) to secure sharing of benefits with local people as conservers of biological resources and holders of knowledge and information relating to the use of biological resources
- (v) conservation and development of areas important from the standpoint of the biological diversity by declaring them as biological diversity heritage sites,
- (vi) Protection and rehabilitation of threatened species,
- (vii) involvement of institutions of self-government in the broad scheme of the implementation of the Act through constitution of committees

6. The proposed legislation primarily addresses the issue concerning access to genetic resources and associated knowledge by foreign individuals, institutions or companies, and

equitable sharing of benefits arising out of the use of these resources and knowledge to the country and the people. In order to safeguard the interests of the local people, vaidas and hakims and to allow research by Indian citizens within the country, the following exceptions are proposed -

- ii. Free access to biological resources for use within India for any purpose other than commercial uses for Indian people
 - iii. Use of biological resources by vaidas and hakims
 - iv. Free access to the and an citizens to use biological resources within the country for research purposes
 - v. Collaborative research with foreign government sponsored or government approved institutions subject to over - policy, guidelines, approvals and controls by Government
7. It is proposed to have National Biodiversity Authority, State Biodiversity Boards and Biodiversity management Committees.
- (a) The National Biodiversity Authority will deal with matters relating to requests for access by individuals, institutions or companies to all matters relating to transfer of results of research from foreigner imposition, terms and conditions to secure equitable sharing of benefits and approach for seeking rights in Intellectual Property Right (IPRs) in or out of India for an invention based on research or information pertaining to a biological resource obtained from India
 - (b) State Biodiversity Boards will deal with matters relating to access by Indians for commercial purposes and restrict any activity which violates the objectives of conservation, sustainable use and equitable sharing of benefits
 - (c) Biodiversity Management Committees will be set up by state governments and government in their respective areas for conservation, sustainable use, conservation of biodiversity and traditional knowledge relating to biodiversity. Biodiversity Management Committees shall be consulted by the National Biodiversity Authority and State Biodiversity Boards on matters related to use of biological resources and associated knowledge within their jurisdiction
8. It is proposed to set up Biodiversity Funds at Central, State and Local levels. The monetary benefits, fees, and royalties received as a result of approvals by National Biodiversity Authority will be deposited in National Biodiversity Fund. The Fund will be used for conservation and development of areas from where resources have been accessed.
9. Normally traded commodities may be exempted by the Central Government by notification and in consultation with the National Biodiversity Authority from purview of proposed legislation.
10. Traditional knowledge is proposed to be protected. It is also proposed that the State Governments notify National Heritage Sites which are important from the standpoint of biodiversity in consultation with institutions of local self government.
11. The Notes on clauses explain in detail the various provisions contained in the Bill.
12. The Bill seeks to achieve the above objectives.

New Delhi
The 20th April, 2000

TR. BAALU

**PRESIDENTS RECOMMENDATION UNDER ARTICLE 117 OF
THE CONSTITUTION OF INDIA**

Copy of letter No. J-22018/11/2006 CSC (BC) dated 8 May 2000 from Shri T.R. Baalu, Minister for Environment and Forests to the Secretary General, Lok Sabha)

The President, having been informed of the proposed Bill to protect India's rich biodiversity and associated knowledge against their use by foreign individuals and organisations without sharing the benefits arising out of such use, has given his recommendation for introduction of the Bill under article 117(1) and for consideration of the Bill under article 117(3) of the Constitution.

NOTES ON CLAUSES

Clause 1 This clause gives the short title of the Bill, the area of its operation and the date of commencement of the Act and its various provisions. As adequate steps have to be taken for the implementation of the provisions of the proposed legislation, provisions have been made that different dates may be appointed for the different provisions of the Act.

Clause 2 This clause contains definition of various expressions used in the Bill such as "Benefit claimers", "Biodiversity", "Bioconservation", "equitable benefit sharing", "National Biodiversity Authority", "State Biodiversity Board" and "Sustainable use", etc.

Clause 3 This clause specifies the certain persons such as non-Indian citizens, NRIs, body corporate, associations, etc. who are not incorporated or registered and are not stated in the Act as eligible citizens, participation in whose corporate management cannot undertake biodiversity projects without approval of National Biodiversity Authority.

Clause 4 This clause provides that no person who intends to transfer the rights of the research projects to a foreign country or to a non-Indian or Indian citizens, any body corporate, body of individuals or any body corporate registered in India but not an Indian participant, share capital or management shall do so after obtaining approval of National Biodiversity Authority. Publication of research papers or dissemination of knowledge through seminars or workshops is exempted provided such publications, etc. are as per the policy guidelines of the Central Government.

Clause 5 Under this clause, collaborative research projects are exempted from the provisions of clauses 3 and 4. Such collaborative research projects are approved by the Central Government and are drawn up as per the policy guidelines specified by the Central Government. Collaborative research projects based on agreements concluded before the commencement of this Act are to be made to undergo appropriate amendments to conform to the provisions of this Act.

Clause 5 1 Under this clause, collaborative research projects are exempted from the provisions of clauses 3 and 4. Such collaborative research projects are approved by the Central Government and are drawn up as per the policy guidelines specified by the Central Government. Collaborative research projects based on agreements concluded before the commencement of this Act are required to make appropriate amendments to conform to the provisions of this Act.

Clause 6 This clause provides that any person seeking any kind of intellectual property rights in India about any invention based on any biological research or information on any new resources obtained from India is required to obtain prior permission of the National Biodiversity Authority. In case of person applying for Patents prior permission of the National Biodiversity Authority is required after the acceptance of the Patent but before sealing of the Patent by the concerned patent authority. It provides for the National Biodiversity Authority to impose fair benefit sharing fee or royalty or both or impose condition of sharing of benefits arising out of the commercial utilisation of such rights.

Clause 7 This clause provides that Indian citizens, body corporate, association or organisation registered in India are required to have permission of the State Biodiversity Board, before obtaining bio-variety resources for commercial utilisation. However, the people and communities of the area and the gurus and hakis who have been practising the ancient economic are exempted from the provisions of this clause.

Clause 8 This clause provides for the establishment of an Authority to be called "The National Biodiversity Authority". The head office of the Authority shall be located at Chennai. The Authority shall consist of a chairperson, eight ex officio members and five non-official members. The chairperson shall be an eminent person in the field of conservation and sustainable use of biodiversity and in matter relating to equitable sharing of benefits. Ex officio members include representatives of the Ministries dealing with Environment and Forest, Agriculture, Research and Education, Ocean Development, Agriculture & Cooperation, Indian Systems of Medicines

and Homoeopathy and Tribal Affairs. The non-official members include specialists and scientists in the field of local diversity, representative of industry, conservers and knowledge holders of biological resources.

Clause 6- This clause specifies that the term of office and service conditions of the non-official members will be laid down in the rules.

Clause 10- This clause specifies that the Chairperson of the Authority shall be the chief executive of the Authority. His detailed powers and functions will be laid down in the rules.

Clause 11- This Clause lays down the conditions for removing the members from the National Biodiversity Authority.

Clause 12- This clause lays down detailed procedure for convening the meetings of the Authority.

Clause 13- This clause seeks to provide for the appointment of various committees by the Authority for efficient discharge of its duties. One such committee will be on agro-biodiversity.

Clause 14- This Clause seeks to provide for the appointment of various officers and employees of the Authority for efficient performance of its functions. It also enables the Central Government to lay down rules governing the method of appointment, salary and the terms and conditions of the officers and employees.

Clause 15- This clause provides that all orders and decisions of the Authority will be authenticate by the signature of the Chairperson or any member authorised by the National Biodiversity Authority.

Clause 16- This clause enables the Authority to de-cede its powers, except the power to settle a disputes under section 20 and the power to make regulations under clause 62, by order in writing to the Chairperson or any member or officer of the National Biodiversity Authority subject to such condition or limitations.

Clause 17- This clause provides that salaries and allowances payable to members, officers and other employees of the National Biodiversity Authority shall be drawn out of the Consolidated Fund of India.

Clause 18- This clause lays down the detailed functions of the Authority which include granting approvals for undertaking any activity referred to in clauses 3, 4 and 6, framing guidelines for access and equitable sharing of benefits, advising the Central Government on matters relating to conservation and sustainable use of biological diversity, advise the State Governments in the Selection of areas to be notified as heritage sites. This clause also provides that the National Biodiversity Authority may take necessary measures to oppose grant of Intellectual Property Rights in any country outside India on any biological material obtained from India or associated knowledge which is derived from India.

Clause 19- This clause provides for making application to the Authority for undertaking activities referred to in clauses 3, 4 and 6. This clause specifies that after receiving an application, the National Biodiversity Authority shall make an appraisal of the case and either grant approval subject to terms and conditions or reject the application giving reasons.

Clause 20- This clause stipulates that persons granted approvals under section 19 are required to obtain approval by the Authority for third party transfer.

Clause 21- This clause deals with determination of equitable sharing of benefits by the Authority while granting approvals under clause 19 and 2. It stipulates that the Authority in consultation with local bodies, impose terms and conditions for securing equitable sharing of benefits, depositing of monetary benefits to the National Biodiversity Fund except in cases where biological resources and knowledge are accessed from specific individual or group of individuals, in which case the monetary benefit will be directly made to the providers.

Clause 22- This clause provides for the establishment of Biodiversity Boards by the State Governments to be called "State Biodiversity Board". The Board shall consist of a Chairperson,

five ex officio members representing various departments of the State Government and five non-official members.

Clause 23 This clause specifies the general functions of the State Biodiversity Board.

Clause 24 This clause provides that the State Biodiversity Board may regulate the activities of Indian citizens, body corporate, organisation or association registered in India, related to obtainment of biological resources for commercial utilisation. Indian citizens, body corporate, association etc. are required to give prior information to State Biodiversity Board about obtaining biological resources for commercial utilisation. The State Biodiversity Board, in consultation with local bodies and after taking enquires, restrict such activity if it is contrary to the objectives of conservation or sustainable use of biodiversity or equitable sharing of benefits.

Clause 25 This clause provides that clauses 9 to 17 will apply to State Biodiversity Board with certain modifications.

Clause 26 This clause enables the Central Government to provide grants and loans to the National Biodiversity Authority for the implementation of the various provisions of the proposed legislation after due appropriation by Parliament.

Clause 27 This clause provides for constitution of a National Biodiversity Fund. grants and loans to the Authority and royalties received by the Authority etc. shall be credited to the Fund. The Fund shall be utilised for conservation benefits to the beneficiaries, conservation of biological resources and development of areas from where no or other resources and knowledge have been accessed.

Clause 28 This clause deals with the preparation of the Annual Report by the National Biodiversity Authority giving full account of its activities including audited statement of accounts.

Clause 29 This clause provides that the accounts of National Biodiversity Authority will be audited by the Comptroller and Auditor General of India and a copy of audited statement of accounts will be furnished to the Central Government.

Clause 30 This clause provides that the Annual Report and Auditors Report of the National Biodiversity Authority will be laid before the Parliament.

Clause 31 This clause enables the State Government to provide grants and loans to the State Biodiversity Boards after due appropriation by the State Legislatures.

Clause 32 This clause provides for constitution of State Biological Diversity Fund, grant or loans to the State Biodiversity Boards and any grants or loans made by the National Biodiversity Authority, and from other sources shall be credited into the State Biodiversity Fund. The Fund shall be utilised for conservation of biological resources, management and conservation of Heritage sites, socio-economic development of areas from where biological resources and knowledge have been accessed, subject to any approval granted by the State Board under clause 24.

Clause 33 This clause deals with the preparation of the Annual report by the State Biodiversity Boards.

Clause 34 This clause provides that the accounts of the State Biodiversity Boards will be audited by the Accountant General of the State and a copy of audited statement will be furnished to the State Government.

Clause 35 This clause provides that the Annual Report and Auditors Report of the State Biodiversity Board will be laid before the State Legislature.

Clause 36 Under this clause the Central Government shall develop national strategies, plans and programmes for conservation and sustainable use of biodiversity as far as practicable and wherever appropriate integrate the conservation and sustainable use of biodiversity into relevant sectors, or cross-sectoral plans, programmes and policies; (i) for assessment of environmental impact of projects, manage or control the and with public participation where appropriate; and, (ii) to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology and endeavour to respect and protect

knowledge of local people relating to biodiversity through measures such as registration and sui generis system as per the recommendations of the National Biodiversity Authority

Clause 37- This clause provides that the State Government may in consultation with the local bodies notify areas of biodiversity importance as biodiversity heritage sites under this Act in consultation with the Central Government frame rules for the management and conservation of heritage sites, and framing of schemes for compensating or rehabilitating people economically affected by such notification

Clause 38- This clause empowers the Central Government to notify threatened species, prohibit or regulate their collection and take steps to rehabilitate and preserve these species

Clause 39- This clause provides that the Central Government in consultation with the National Biodiversity Authority may designate institutions as Repositories under this Act for different categories of biological resources, the Repositories to keep in safe custody the biological materials including voucher specimens deposited with them and that any new taxon discovered shall be referred to the Repositories or any other institution designated for this purpose and its voucher specimen deposited with such Repository of institution

Clause 40- This clause provides that the Central Government may in consultation with the National Biodiversity Authority exempt, by notification biological resources normally traded as commodities from the provisions of this Act

Clause 41- This clause stipulates that every local body shall constitute a Biodiversity Management Committee for conservation, sustainable use and documentation of biodiversity, the National Biodiversity Authority and the State Boards will consult the Biodiversity Management Committees while taking any decision relating to the use of biological resources and associated knowledge occurring within their jurisdiction and the Biodiversity Management Committee may impose collection fees for collecting biological resources from their territory

Clause 42- This clause enables the State Government to provide grants or loans to Local Biodiversity Funds after due appropriation by the State Legislature

Clause 43- This clause provides for constitution of a Local Biodiversity Fund in areas where institutions of self-government are functioning. Grants or loans made by the National Authority any grants or loans may be the State Biodiversity Boards, collection fees received by the Biodiversity Management Committee, and other sources shall be credited into such Fund

Clause 44- This clause provides that the Local Biodiversity Fund shall be used for conservation of biodiversity in the jurisdiction of the local self-governments

Clause 45- This clause provides for preparing the Annual Report of the Biodiversity Management Committee and accounts for submission to the State Governments

Clause 46- This clause provides that the accounts of the Local biodiversity Fund shall be maintained and audited in consultation with the Accountant General of the state

Clause 47- This clause provides that the Annual report and Auditors Report of the Local Biodiversity fund will be laid before the State Legislature

Clause 48- This clause stipulates that the National Biodiversity Authority in discharge of its functions and duties shall be bound by the directions of the Central Government

Clause 49- This clause stipulates that the State Biodiversity Board in discharge of its functions and duties shall be bound by the directions of the State Government

Clause 50- This clause sets out the detailed procedure for settlement of disputes between State Biodiversity Board proceedings before the National Authority shall be deemed to be a judicial proceedings for the purpose of section 196 of the Indian Penal Code and the National Authority shall be deemed to be a Civil Court for the purposes of the section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973

Clause 51- This clause states that the members, officers and other employees of the National

Authority or State Biodiversity Boards shall be deemed to be public servants.

Clause 52-This clause provides for protection of action taken in good faith by the Central Government or the State Government, officers and employees of the said governments, members, officers or employees of the National Biodiversity Authority or the State Biodiversity Board, from any suit, prosecution or other legal proceedings.

Clause 53-This clause provides for penalties for contravening clauses 3, 4 and 6. The penalty will be imprisonment for a term which may extend to 5 years or fine which may extend to Rs. 10 lakhs or both; and that penalty for contravention of the provisions of clause (7) sub-clause (1) of the clause 24 shall be imprisonment for a term which may extend to three years or fine which may extend to Rs. 5 lakhs or both.

Clause 54-This clause provides for penalty for contravention of directions or order of the central Government, the State Government, the National Biodiversity Authority and the State Biodiversity Boards.

Clause 55-This clause contains provisions for offences by companies. This clause seeks to provide that where a person committing offence is a company, every person responsible in the company for the conduct of its business will be liable; where a person accused proves that the offence was committed without his knowledge he will not be liable. However, where it is proved that an offence has been committed with the consent or connivance or is attributable to the neglect of any director, manager, secretary or any other officer of the company, he shall be deemed to be guilty of the offence.

Clause 56-This clause provides that the offences under this Act shall be cognizable and non-bailable.

Clause 57-This clause states that the provisions of the proposed legislation shall have over-riding effect on all other laws for the time being in force or anything inconsistent with the proposed legislation contained in any instrument.

Clause 58-This clause stipulates that the Central Government may give directions to the State Governments for execution any of the provisions of this Act.

Clause 59-This clause provides that no court shall take cognizance of any offence under this Act or rules/regulations made thereunder except for complaints made by, National Biodiversity Authority or State Biodiversity Boards.

Clause 60-This clause empowers the Central Government to make rules to carry out the provisions of the proposed legislation; enumerates the various matters in respect of which such rules may be made; and seeks to provide that every rule made shall be laid before Parliament.

Clause 61-This clause empowers the State Governments to make rules to carry out the provisions of the proposed legislation, enumerates the various matters in respect of which such rules may be made, and seeks to provides that every rules made shall be laid before the State Legislature.

Clause 62-This Clause empowers the National Biodiversity Authority to make regulations consistent with the provisions of the proposed legislation and the rules made thereunder. Such regulations are required to be made with the previous approval of the Central Government and by notification in the Official Gazette.

Clause 63-This clause empowers the Central Government to remove difficulties which may arise in giving effect to the provisions of the proposed legislation by order published in the Official Gazette, such order shall not be inconsistent with the provisions of the proposed legislation. This power can be exercised only within two years from the commencement of the proposed legislation. Every such order shall be required to be laid before Parliament.

FINANCIAL MEMORANDUM

Clause 8 provides for setting up of a Statutory Authority to be known as the National Biodiversity Authority at Chennai. The Authority may decide in the future to establish offices in other places in India as envisaged under clause 8 (3) of the Bill. The recurring expenditure towards salary, allowances and other expenditure relating to Chairperson, members and other officers and employees of the Authority appointed under Clause 14 will be of the order of Rs. 10 lakhs per annum. The other recurring expenditure by way of rent, maintenance, meetings, office expenses and contingency, etc. will be of the order of Rs. 80 lakhs per annum. Non-recurring expenditure on establishment, office equipment, vehicles etc. will be approximately of the order of Rs. 50 lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 60 of the Bill empowers the Central Government to make rules by notification in the official Gazette for carrying out the purposes of the proposed legislation. Sub-clause (2) of the clause enumerate the matters with respect to which rules may be made under the proposed legislation. These matters inter alia relate to the terms of office, the salary and allowances and conditions of the Chairperson and members of the National Biodiversity Authority, powers and duties of Chairperson, transaction of business of the National Biodiversity Authority, form of application and payment of fees for undertaking certain activities; the procedure for adjudication etc.

2. Clause 61 of the Bill empowers the State Governments to make rules by notification in the official Gazette for carrying out purposes of this proposed legislation. Sub-clause (2) of that clause enumerates the various matters with respect to which rules may be made under this legislation. These matters inter alia related to the form in which the prior intimation shall be given; rules for the management and conservation of heritage sites; management of the Local Biodiversity Fund, etc.

3. Clause 62 of the Bill empowers the National Biodiversity Authority to make regulations with the previous approval of the Central Government by notification in the official Gazette.

4. The rules and regulations made under the proposed legislation shall be required to be laid before Parliament.

5. The aforesaid matters in respect of which rules, regulations may be made or framed relate to matters of procedure or administrative detail and its is not practicable to provide for them in the bill itself. The delegation of legislative power is, therefore, of a normal character.

